

April 18, 2016

Page 1

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

BRANDON LESTER	§	
	§	
vs.	§	CIVIL ACTION NO.
	§	7:15-CV-665
SMC TRANSPORT, LLC AND ISRAEL	§	
MARTINEZ, JR. AND SALINAS	§	
EXPRESS, LLC	§	
	§	

ORAL AND VIDEOTAPED DEPOSITION  
ISRAEL MARTINEZ, JR.  
April 18, 2016

ORAL AND VIDEOTAPED DEPOSITION OF ISRAEL MARTINEZ, JR., produced as a witness at the instance of the Plaintiff and duly sworn, was taken in the above-styled and numbered cause on April 18, 2016, from 12:41 p.m. to 5:19 p.m., before Annette E. Escobar, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the offices of La Posada Hotel, La Posada Hotel, 1000 Zaragoza Street Laredo, The Blue Bonnet Conference Room, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.



1 P-R-O-C-E-E-D-I-N-G-S

2 Whereupon,

3 12:41 P.M.

4 THE VIDEOGRAPHER: We are on the record.

5 Today's date is April 18th of the year 2016. The time is  
6 approximately 12:41 at noon, and you may proceed with the  
7 deposition, please.

8 ISRAEL MARTINEZ, JR.,  
9 having been first duly sworn, testified as follows:

10 EXAMINATION

11 BY MS. WHITE:

12 Q Mr. Martinez, my name is Johneal White and I  
13 represent Brandon Lester in this lawsuit that we're here  
14 about today.

15 Can you state your full name for the  
16 record.

17 A Israel Martinez, Jr.

18 Q And what's your current address?

19 A [Redacted]

20 Q And you live there with your wife Lilly?

21 A Yes, ma'am.

22 Q And that's in Zapata?

23 A Yes, ma'am.

24 Q Does anyone else live there with you?

25 A No, ma'am.

1 Q (By Ms. White) How long did you work there?

2 A I worked for them almost like three years.

3 Q What caused you to leave that job?

4 A I got another job on the, on trucking with  
5 Movac.

6 Q How do you spell that?

7 A M-O, M-O-V-A-C. It would be the same thing as  
8 Key Energy, just hauling wastewater.

9 Q Do you know how long you worked there?

10 A For -- I worked for them almost like, I would  
11 say almost three years.

12 Q What caused you to leave that job?

13 A Same thing, just laid off, slow on job.

14 Q Where did you work after that?

15 A After that I went back to gauging with Sundance.

16 Q How long did you work there?

17 A A year and a half.

18 Q What caused you to leave that job?

19 A What happened, they sold the wells to another  
20 company that was Linn Energy and I got a contract with  
21 C&D -- C&D.

22 Q What caused you to leave that job?

23 A That job what happened, they just had to let us  
24 go because they was trying to sell more wells and it was  
25 just like, there was not enough work for us.

1 Q And is that when you started working for Salinas  
2 Express?

3 A No, I went for another job, La-Lomas. L-A --  
4 L-A-M-O-S.

5 Q What did you do there?

6 A Caliche, hauling caliche on the belly dumps.

7 MR. FRANKL: I'm sorry, hauling what?

8 A Caliche. It will be like gravel for the  
9 location when they're building up the location.

10 Q (By Ms. White) And that was a driving job?

11 A Yes, ma'am, it was.

12 Q How long did you work there?

13 A For them I worked like eight months.

14 Q What caused you to leave that job?

15 A I got a job with Salinas. That's when I got my  
16 job with Salinas.

17 MR. FRANKL: Did you say a month or eight  
18 months?

19 THE WITNESS: Eight months.

20 Q And who initially asked you to drive a truck for  
21 Salinas Express?

22 A Rudy.

23 Q Rudy Salinas?

24 A Yes, ma'am.

25 Q Is he your cousin?

1 A Yes, ma'am; second, I would say.

2 Q Did you guys grow up together in Zapata?

3 A Yes, ma'am.

4 Q Tell me about the conversation you had with Rudy  
5 when he asked you to come work for him?

6 A He needed more drivers and he asked me, like, if  
7 I was willing to work for them. I didn't want to because  
8 I didn't have that much experience working on the oil,  
9 over the road, but he was going to show me for a couple of  
10 weeks.

11 I guess when I started up he went with me  
12 like two times on a trip.

13 Q Before you went to work with Salinas Express had  
14 you ever driven over the road?

15 A No, ma'am.

16 Q By over the road, do you understand that to mean  
17 intrastate long haul trucking?

18 A Yes, ma'am.

19 Q How often did you do jobs for Salinas Express?

20 A Couple of weeks. I would say after when I got  
21 in with them, I was able to like couple -- to be honest, I  
22 don't know how many trips a day I made but I made several  
23 trips.

24 Q When did you make your first trip for Salinas  
25 Express?

1           A     No, it was already installed on the truck, they  
2 bought it.

3           Q     Do you know how many tractors Salinas Express  
4 owns?

5                     MR. HEARN: To clarify, owns now?

6           Q     (By Ms. White) Currently.

7           A     Okay. Because I really don't know. Right now  
8 each, let's say brothers and sisters, they got one. I  
9 don't know which one belongs which one.

10          Q     They each have one?

11          A     Yes, ma'am, and they all like Salinas Express.

12                     MR. DUNN: I'm sorry, they're all what?

13                     THE WITNESS: They're on the same company,  
14 they all have the same label. So that's why we don't know  
15 which one, which one. The only time that I find out is  
16 when I use Roy's because he was the one paying me when I  
17 had to use his truck. But after that, I don't know how  
18 many trucks they got or what.

19          Q     (By Ms. White) Do you know how many trucks there  
20 are currently that have Salinas Express written on the  
21 side?

22          A     There's five that Salinas Express property and  
23 they're two that they lease with Salinas Express. About  
24 seven trucks in total, more or less.

25                     MR. FRANKL: I'm sorry, you said there's

1 five with what?

2 THE WITNESS: They're -- there's Salinas  
3 property, let's say they own five trucks from all the  
4 brothers, and there are two trucks that got leased with  
5 somebody, somebody else truck.

6 MR. FRANKL: But it says Salinas Express?

7 THE WITNESS: It says Salinas Express, yes,  
8 sir.

9 Q (By Ms. White) When did you stop working for  
10 them?

11 A I stopped working with them, maybe it was, I  
12 would say like three months ago.

13 Q We're here in April, so maybe in January?

14 A Yeah, I think so it was in January, something  
15 like that.

16 Q What caused you to stop working for Salinas  
17 Express?

18 A What happened is because I was checking because  
19 it was -- I just went over and asked them that I need my  
20 logbooks because they needed me for another trip and I was  
21 looking for my book. And when I went -- when I called  
22 them and asked them, they told me they didn't know where  
23 it was at. That's when I just like, I didn't -- I just  
24 back up. I didn't want to go.

25 Q You felt uncomfortable working there?

1           A     Yes, because I was looking for my own stuff and  
2     I couldn't find my papers.

3           Q     So from June 2015 until you stopped working  
4     there in about January 2016, did they also have seven  
5     trucks during that time that they either owned or leased?

6           A     I think they only had, because they just barely  
7     bought like two of them. I think they had five.

8           Q     Okay. During the time you worked there they  
9     might have acquired two additional trucks?

10          A     Yes, ma'am. I think. I'm not sure.

11          Q     When you were given a job to do were you told  
12     like how long you had to accomplish, like when your  
13     delivery date was?

14          A     Yes, ma'am.

15          Q     Was there any rule about passengers in the truck  
16     with you?

17          A     They never told me nothing about that.

18          Q     And just to clarify, you did not own any of the  
19     tractors used by Salinas Express?

20          A     No, I didn't.

21          Q     Have you ever owned your own tractor?

22          A     No, ma'am, I didn't, I don't.

23          Q     You were paid by Salinas Express in cash?

24          A     Yes, ma'am, I was.

25          Q     And would your wife Lilly pick that up for you



1 most of the time?

2 A She did like two or three times because I wasn't  
3 here and she, let's say she needed money, and she would  
4 ask me, I would just tell her to go pick them up.

5 Q And that would be at the Salinas Express yard?

6 A Yes, ma'am.

7 Q Mostly from Rudy?

8 A Yes, ma'am.

9 Q How was it determined what your rate of pay  
10 would be?

11 A The pay that she would get, it only would be  
12 only the trip I took, the first trip that I made. That  
13 would be the only, the only pay that she would get.

14 Q But who, who set the rate? Like determined  
15 you're going to get paid X for this trip?

16 A Oh, Rudy.

17 Q Rudy.

18 A Yes, ma'am.

19 Q And was it based upon a certain rate or the  
20 miles you traveled or --

21 A It goes by the mile.

22 Q And do you know what that rate was?

23 A No, ma'am, I sure don't.

24 Q Did you, you did not negotiate the rate with him  
25 at all?

1 A You're saying like the mile, by the mileage?

2 Q Yeah.

3 A Oh, yeah, it was 40 cents a mile.

4 Q Forty cents a mile?

5 A I thought you were talking about the whole  
6 amounts.

7 Q So he paid you mileage?

8 A Yes, ma'am.

9 Q And would he pay you for extra things on top of  
10 the mileage?

11 A No, ma'am.

12 Q Okay. And is that, is that something he just  
13 sort of dictated to you, said, I'll pay you 40 cents a  
14 mile?

15 A Yeah.

16 Q Were there any expenses for the tractor that you  
17 had to pay for yourself?

18 A No, ma'am.

19 Q And did you ever use any of the Salinas Express  
20 tractors to haul a load for a different company?

21 A No, ma'am.

22 Q During the time you worked for Salinas Express  
23 did you have any other jobs?

24 A No, ma'am.

25 Q And fair to say that Salinas Express is in the

1 business of hauling, you know, carrying loads?

2 A Uh-huh.

3 Q They're a truck driving company?

4 A Yeah, it is a truck driving company.

5 Q Do they do anything else?

6 A No, ma'am.

7 Q Did they say why they were paying you in cash?

8 A No, ma'am.

9 Q Do you know how they paid other drivers?

10 A I cannot say that I saw it but I just saw one,  
11 we were two of us that were paid in cash. We got there at  
12 the same time, that's why.

13 Q And who would that be?

14 A The other driver was Richer, I think. It was  
15 Richer Vela.

16 Q How do you spell that?

17 A Richer is R-I-C-H-E-R. Vela is V-E-L-A.

18 Q Do you know where he lives?

19 A Oh, he lives in San Antonio.

20 Q And did you ever drive like with him, two trucks  
21 going to same place?

22 A With that same guy?

23 Q Yeah.

24 A Yeah, we did.

25 Q How many times did you do that with him?

1 A No, ma'am.

2 Q Do you know what they were hauling?

3 A No, ma'am.

4 Q And so what did you do when Rudy called you?

5 A He just asked me if I would be able to go and  
6 help him out because they were kind of tired, they were  
7 barely coming down from a trip and they needed somebody  
8 else help them drive.

9 Q So Eddie and Roy had come back to Zapata?

10 A They got back to Laredo to make, to deliver one  
11 of the loads.

12 Q So they delivered a load to Laredo.

13 A Yes, ma'am.

14 Q And did they come back in Eddie's tractor?

15 A The -- Roy came over to my house and picked me  
16 up on the personal truck.

17 Q Okay. Do you know how Eddie and Roy had gotten  
18 back to Laredo?

19 A On their truck, on Eddie's truck.

20 Q On Eddie's truck?

21 A Yes, ma'am.

22 Q Okay. And so then Roy came over to your house?

23 A Rudy told me that Roy was going to call me to  
24 see where I was at and he was going to pick me up.

25 Q All these calls, are they taking place on your

1 cell phone?

2 A Yes, ma'am.

3 Q What was that phone number?

4 A I used to have 489-3162.

5 Q What was the area code?

6 A 956.

7 Q Is that AT&T?

8 A Yes, ma'am.

9 Q So Rudy tells you Roy is going to go pick you  
10 up, and does Roy go pick you up?

11 A Yes, ma'am.

12 Q In his personal truck?

13 A In his personal truck.

14 Q And where did you guys go from there?

15 A We just took off to the Salinas yard. We waited  
16 there for almost -- for a couple of minutes until Eddie  
17 arrived. From there I just took off with Eddie to the  
18 Valley. We went to McAllen.

19 Q So you and Eddie went to McAllen?

20 A Yes, ma'am.

21 Q Where did you guys go?

22 A We were supposed to go to SMC yard to go and  
23 pick up another truck that, that they were going to lend  
24 us to bring the other truck over.

25 Q Had you ever been to the SMC yard before?

1 A No, ma'am.

2 Q Who told you that -- where you guys were going?

3 A I think Eddie, he already knew where we were  
4 going to be going to.

5 Q And did Eddie say, SMC is going to lend us the  
6 truck?

7 A No. The person who say that, told me that I  
8 think -- well, it was Roy, that we were going to pick up a  
9 truck but they didn't say nothing they were going to lend  
10 us a truck. Nothing like that. Just going to pick up a  
11 truck.

12 Q So Roy said that SMC was going to lend you a  
13 truck?

14 MR. DUNN: Object to the form.

15 Q (By Mr. State-Plaintiff) Did Roy say SMC was  
16 going to lend you a truck?

17 A He just told us there was some, they were going  
18 to lend us a truck, but didn't know who was it until we  
19 got there.

20 Q And do you know Sergio Cuellar?

21 A We met him there in McAllen.

22 Q Had you ever met him before?

23 A No, ma'am.

24 Q Is he Roy and Rudy's cousin?

25 A Yes, ma'am.

1 Q But he's not your cousin?

2 A No, ma'am.

3 Q So you met him in McAllen?

4 A Yes, ma'am.

5 Q Where did you guys meet?

6 A We were going, supposed to go to his yard but  
7 like that day it was kind of heavy raining, it was  
8 flooded. We couldn't be able to exit. We just had to  
9 call him. I think Eddie called Roy and told him that we  
10 were going to go straight to the truck stop, that we were  
11 going to meet over there.

12 Q Do you know what day this was?

13 A (Nods head.)

14 Q And did you in fact meet Mr. Cuellar?

15 A What happened, he wasn't there. We were having  
16 trouble hooking up Eddie truck down to the SMC truck  
17 because we didn't have no experience using the wench that  
18 they had.

19 Q Okay. So but how did -- where did you pick up  
20 the SMC truck?

21 A On the truck stop.

22 Q And how did it get there?

23 A Roy took it. He was already -- what happened,  
24 he left from his own truck down to the Weslaco and I took  
25 off with Eddie. He got there faster than we did. Well,

1 (Exhibit marked for identification as  
2 Deposition Exhibit Number 4.)

3 THE WITNESS: Do I pass it over?

4 MR. DUNN: Is that the color?

5 MS. WHITE: Yeah, that is the color of the  
6 family photo.

7 MR. HEARN: Has this been produced in  
8 discovery?

9 MS. WHITE: I don't think so. I think we  
10 just downloaded it.

11 MR. HEARN: Okay. Well, I'll object to the  
12 extent you ask him about a document that's never been  
13 produced in discovery, but subject to that objection, go  
14 ahead.

15 Q (By Ms. White) Do you recognize any of the people  
16 in that photo as Sergio Cuellar?

17 A Yes, ma'am.

18 Q Starting from left to right, which one is he?

19 A The first one.

20 Q He's -- so, the first person?

21 A No, no, no. The last one. From left to right,  
22 right?

23 Q Yeah, from left to right?

24 A Yeah, it would be the first one on the  
25 right-hand side.



1 Q Okay. Wearing the glasses?

2 A Yes, ma'am.

3 MR. DUNN: When you are facing the exhibit  
4 here, you are talking about the right-hand side?

5 MS. WHITE: Yes.

6 MR. HEARN: Since we're on video, just have  
7 him point.

8 MS. WHITE: Oh, that's true. If you want  
9 to flip it around.

10 MR. DUNN: That's too simple.

11 Q (By Ms. White) Can you point to which one is  
12 Sergio Cuellar?

13 A (Indicating).

14 Q So before he arrived at the truck stop, do you  
15 know -- do you know what truck stop it was you guys were  
16 at?

17 A It was a small one. I don't know which one was  
18 it.

19 Q Before he arrived at the truck stop, had you  
20 attempted to hook a vehicle up to the SMC tractor?

21 A Before getting to the truck stop?

22 Q Before he arrived at the truck stop?

23 A They were doing it. It was Roy and Eddie trying  
24 to hook up the Salinas Express truck.

25 Q And they weren't having much luck?

1 A No, they were having a lot of trouble as well.

2 Q And so did Roy make a phone call?

3 A I think Roy was the one who called them. I'm  
4 not sure because I didn't see. He just got there.

5 Q And then Mr. Cuellar showed up?

6 A Yeah. Suddenly he just showed up. That's why  
7 I'm saying they might have called him.

8 Q Did he proceed to operate the wench?

9 A Cuellar?

10 Q Yeah, Mr. Cuellar?

11 A Yeah.

12 Q And he's the one who in fact, did he assist in  
13 hooking up the Salinas Express truck?

14 A Yes, ma'am.

15 Q To?

16 A The SMC truck.

17 Q To the SMC truck?

18 A Yes, ma'am.

19 Q And then what happened?

20 A After that we just got everything hook up and we  
21 got all three of us, got on to the SMC truck and took off  
22 to Houston.

23 Q When you say three that would be you, Roy and  
24 Eddie?

25 A Eddie, yes, ma'am.

1 Q And Mr. Cuellar just left?

2 A He just left.

3 Q And where did you guys -- who drove to Houston?

4 A Roy.

5 Q And what did you guys do in Houston?

6 A We were going to pick up Art, Arturo.

7 Q Arturo Gutierrez?

8 A Gutierrez, yes, ma'am.

9 Q And why were you picking him up?

10 A He was going to try to fix the truck.

11 Q Is it your understanding he's a mechanic?

12 A Yeah, he's a mechanic.

13 Q Do you know him?

14 A Yes, I know him.

15 Q How do you know him?

16 A I seen him before. He used to be living in  
17 Zapata a couple of years.

18 Q Does he operate his own company or?

19 A I don't know. I don't think so.

20 Q As you guys were going to Houston was there any  
21 communication back with Rudy?

22 A No, ma'am.

23 Q So you pick up Art in Houston?

24 A Houston, yes, ma'am.

25 Q Do you know what day that was?

1           A     I would say like, it took us almost a day to get  
2     to Virginia. I don't know, to be exact. I don't know the  
3     date, what date was it.

4           Q     And do you know what time of day it was?

5           A     I would say it was already at night. I would  
6     say it was almost like 11:00 at night. When we arrived to  
7     the store we were going pick him up.

8           Q     Had someone called Art ahead of time to let him  
9     know what was happening?

10          A     Yeah, I think it was Roy the one who called him  
11     and asked him for a favor to see if he can be able to go  
12     with us and try to fix the truck.

13          Q     Did you at that time know what was wrong with  
14     the truck?

15          A     No, ma'am.

16          Q     And so then you guys proceeded to drive to  
17     Virginia?

18          A     Yes, ma'am.

19          Q     So there are four of you in the truck at that  
20     time?

21          A     Yes, ma'am.

22          Q     And did you guys take turns driving?

23          A     Yes, ma'am.

24                     MR. FRANKL: I'm going to object to the  
25     form of the question. Not specific enough.

1 Q (By Ms. White) Did you drive the SMC truck at any  
2 point on the way to Virginia?

3 A Yes, ma'am, I did.

4 Q And did Eddie drive the SMC truck?

5 A No, ma'am.

6 Q Did Art drive the SMC truck?

7 A No, ma'am.

8 Q Did Roy?

9 A Yes, ma'am.

10 Q So you and Roy took turns?

11 A Uh-huh.

12 MR. HEARN: Is that a yes?

13 A Yes, ma'am.

14 MR. HEARN: Everybody does it, but try to  
15 remember say yes or no because uh-huh and unh-unh sound  
16 the same sometimes.

17 THE WITNESS: I'm sorry.

18 MR. HEARN: That's fine. You're doing  
19 fine.

20 Q (By Ms. White) And at that point from Houston to  
21 Virginia you were still hauling Eddie's tractor?

22 A Yes, ma'am.

23 Q Why were you guys hauling Eddie's tractor?

24 A Because he was going, he was going to get, get  
25 the trailer from Roy and deliver that load that Roy was

1 supposed to deliver a couple of days back.

2 Q And do you know where he had to deliver that to?

3 A Laredo.

4 Q Where in Laredo?

5 A I went with him. I don't remember, it was on  
6 Mines Road, but I don't remember what place was it.

7 Q It was where?

8 A Mines Road, but to be exact, I don't remember  
9 the exact name of the place.

10 Q Do you know what he was hauling?

11 A No, ma'am.

12 Q And do you know what time did you get to  
13 Virginia, to the rest area?

14 A It was, like, around 4:00, 4:30.

15 Q In the?

16 A In the morning.

17 Q In the morning?

18 A Yes, ma'am.

19 Q On October 26th?

20 A Yes, ma'am, I think.

21 Q When you arrived in Virginia at the rest area,  
22 who was driving?

23 A It was Roy.

24 Q Were you awake or asleep when you arrived at the  
25 rest area?

1           A     I was asleep, I think.

2           Q     So who initially parked the SMC tractor at the  
3 rest area?

4           A     It was Roy.

5                   MS. WHITE: It's just an overhead view  
6 of -- I made multiple copies because there's multiple  
7 witnesses.

8                   MR. FRANKL: Let me see.

9                   MS. WHITE: I might need it back at some  
10 point for other people to draw on.

11                  MR. DUNN: I definitely want to take a look  
12 at it.

13                           (Exhibit marked for identification as  
14 Deposition Exhibit Number 5.)

15           Q     (By Ms. White) I want you to take a look at  
16 what's been marked as Exhibit 5, Cumulative Deposition  
17 Exhibit 5.

18                   Do you recognize that as an overhead view  
19 of the rest area?

20           A     Yes, ma'am, I do.

21           Q     Is the area where the SM -- where Roy parked the  
22 SMC tractor, is it shown on here?

23           A     The area, yes, ma'am, it is.

24           Q     Can you just -- can I borrow your red pen?

25                   MR. HEARN: I don't know how it will show

1 Q He made a u-turn within the rest area?

2 A Yes, ma'am, inside.

3 Q And then so at some point you hooked the SMC  
4 tractor up to the Salinas, disabled Salinas tractor?

5 A Yes, ma'am.

6 Q And was that on the side you had denoted with an  
7 X or on the side where there was the rectangle?

8 A On the rectangle.

9 Q Okay. And who assisted in -- let me strike  
10 that.

11 Who operated the wench to get the disabled  
12 Salinas tractor hooked up to the SMC tractor?

13 A Roy.

14 Q Did you help at all in doing that?

15 A Yes, ma'am.

16 Q What did you do?

17 A We were putting chains on the differential, the  
18 disabled truck. That was the only part that would he be  
19 able to work with the, when the wench -- we were trying to  
20 hook up with the wench on the disabled truck, it would  
21 pick up the whole thing with the differential and the  
22 wheels and everything.

23 Q And what was Eddie doing during that time?

24 A He was there helping us.

25 Q Do you know what he did specifically?



1           A     No, ma'am, I don't remember where he was, to be  
2 honest.

3           Q     And what about Art, what was he doing?

4           A     He was checking the differential, try to see  
5 what was wrong with it or...

6           Q     So at some point you all were successful in  
7 getting the broken down Salinas tractor hooked up to the  
8 SMC tractor?

9           A     Correct.

10          Q     And then what did you all do?

11          A     When we got down, we were trying to back it up  
12 that way -- we were trying to -- I don't know how to say  
13 those words exactly the way you all talk, but we were  
14 trying to straighten the other truck to be able to turn  
15 SMC truck to the south side so we can be able to take off.  
16 But we couldn't because all the rest area, even the ramp,  
17 was full of trucks. It was super packed that we couldn't  
18 be able to, to turn that little piece where is that right  
19 now I don't know.

20                     The only way we could be able to do it, to  
21 try, was just going straight to the exit, to the entrance  
22 side, try to break that truck disabled and turn it back  
23 on. And that's what I was trying to do because I was the  
24 one driving.

25                     MR. FRANKL: Let's go off the record a

1 minute.

2 THE VIDEOGRAPHER: The time is 3:01 in the  
3 afternoon and we are going off the record.

4 THE VIDEOGRAPHER: We are back on the  
5 record. The time is 3:05, and we are back on the record.  
6 You may continue.

7 Q (By Ms. White) So we have the Salinas disabled,  
8 disabled tractor. Does that tractor have a number that  
9 you know of?

10 A Yeah, they do, but I don't know the number.

11 Q So the disabled Salinas tractor is facing south  
12 and SMC tractor is facing north, and I think you described  
13 the rest area was very crowded.

14 A Yes, ma'am.

15 Q So there was no opportunity to do a u-turn  
16 within the rest area?

17 A Yes, ma'am, correct.

18 Q Were there trucks sort of parked along the  
19 entrance ramp there?

20 A Yes, ma'am.

21 Q Do you know how many?

22 A It was packed.

23 Q So one after the other?

24 A Yes, ma'am. It was like about --

25 Q And what did you guys do?

1           A     Well, we were trying to make the u-turn, but I  
2     couldn't because what happened when you have two tractor  
3     it's kind of hard to make that, to back it up. The only  
4     thing that we did, we were trying to straighten that  
5     thing, the tractor with the trailer -- with the other  
6     tractor hook up, tried to, tried to straighten it out  
7     straight so I could be able to back it up without hitting  
8     both sides -- because on both sides there were tractors  
9     with trailers.

10                   The only thing I thought about doing was  
11     making my turn to get the other tractor straight out so I  
12     can be able to back it out slowly. Tried to get to this  
13     side and try to break the disabled tractor so I could be  
14     able to turn the other way around so I can be able to get  
15     the exit side the way it's supposed to be.

16           Q     So you thought about trying to go out and go  
17     through where the cars are?

18           A     Exactly. Yeah, I was going to make my -- I made  
19     my turn right over here, like around this area.

20           Q     Where the triangle is?

21           A     Yeah, more or less where the triangle is at.  
22     That was the only way that I could have the other truck  
23     facing straight out without hitting both on the side  
24     because it was full of trucks. And that's what I did. I  
25     was just like -- I don't know how to say those words but I

1 was, how do I -- I was just like moving both of the trucks  
2 and try to straight it out so I can be able to back it up.

3 Q So was it your intention to make a u-turn to go  
4 south on 81?

5 A No, my intention was making that little turn so  
6 I can be able to have the other disabled truck straight  
7 out so I can be able to back it up on the way back and  
8 make my u-turn right over here on this space because that  
9 was the only space I had to make my U-turn.

10 Q So to back up the tractor straight to where the  
11 cars go and then be able to turn south?

12 A On the exit side.

13 Q On the exit side.

14 So you were driving the SMC tractor?

15 A Yes, ma'am, I was.

16 Q Was anyone spotting for you?

17 A Yeah, there were two. It was Art and Roy. They  
18 were like a couple of foot away where I was. Like one was  
19 far away from the another one. They both were watching  
20 because like I was facing the entrance, facing the  
21 entrance side, I had -- there was, like Roy was standing  
22 like around this area.

23 Q Can you put an R where Roy was standing?

24 A More or less.

25 Q And E where Eddie was?

1 A No, it wasn't Eddie.

2 Q Art. Roy and Art.

3 Where was Eddie when you were doing this?

4 A I never saw him. He was there when I was barely  
5 trying to pull out the other truck but I never saw him  
6 when all this happened. I never saw him. I don't know if  
7 he was there with him or not because he was there but I  
8 never saw him again. I don't know what happened to him.

9 Q So what were Eddie -- strike that.

10 What were Art and Roy doing as you were  
11 pulling out the entrance?

12 A He was, they were checking, checking for vehicle  
13 that was approaching where I was exiting, that I was  
14 pulling, right, because I was pulling the wrong side.  
15 They thought like if I was pulling this way, they thought  
16 there was some other vehicle coming in and it was going to  
17 be like accident or something. And they were watching  
18 there for me.

19 Q And did they have any -- did you guys have any  
20 agreed upon signal or anything?

21 A I had my window down. They were screaming at  
22 me, telling me slow down. Because we weren't that far  
23 from each other.

24 Q So you could hear what they were saying?

25 A Yes, ma'am.

1 Q And they would give you direction?

2 A Yes, ma'am.

3 Q Both of them?

4 A Yeah.

5 Q And so what is the furthest point along the  
6 entrance ramp that you got pulled forward?

7 A It was around this area. It was this corner. I  
8 made my turn because like on this area right here, they  
9 had like a sign and I just, I was just straighten out the  
10 other truck. I just made my turn like that so I could  
11 have the other one breakdown to be on the safe side, on  
12 the side, and I was going to break down this truck, break  
13 down slowly and try to back it out of the way.

14 Q So where you just put a mark, sort of a curve  
15 that is the furthest point that you got forward?

16 A (Indicating).

17 Q At any point did you have any flashers?

18 A I had my lights on.

19 Q Headlights?

20 A Yeah, headlights.

21 Q Any emergency --

22 A I had my flashers on.

23 Q Emergency flashers?

24 A Yes, ma'am, from the truck.

25 Q Had you set out any sort of --

1 A Triangle?

2 Q -- triangle or anything.

3 A No, because I was moving. I was pulling the  
4 other truck out, that's why.

5 Q At any point did the -- part of the SMC tractor  
6 that you were driving get into either of the lanes of  
7 Interstate 81?

8 A To be honest, I don't know. I don't know  
9 because the only thing that I heard, it was Roy, he  
10 screamed at me and told me to stop. And I just made -- I  
11 just made a complete stop. And that's why it was  
12 approaching, like it was a white car that was approaching  
13 on the, from the interstate but he was coming on the  
14 left-hand side on the fast lane.

15 Q So you saw a white car coming in the left hand  
16 lane on Interstate 81?

17 A Correct.

18 Q And did it pass you by?

19 A Yes, ma'am.

20 Q So at some point do you know exactly what Roy  
21 screamed?

22 A Yeah, because like I was moving the truck, I was  
23 trying to work it. I never saw the light coming by. Then  
24 the only thing he told me just stop before, because he  
25 thought I was trying to make like a u-turn something when

1 I was just trying to move the truck so I can able to back  
2 it up. He told me to stop and I just stopped just like  
3 that. And that's when I saw that white car. It just  
4 slowed down. It was slowing down. That's when the  
5 accident happened.

6 Q All right. And do you know when you stopped  
7 where you were?

8 A I was right here.

9 Q Where you made the mark, the curve?

10 A Exactly.

11 Q Were you -- at any point were you in the right  
12 lane of Interstate 81 south?

13 MR. HEARN: Objection. Asked and answered.  
14 Go ahead.

15 A I don't know.

16 Q (By Ms. White) Do you know if you were in the  
17 left lane at all?

18 MR. HEARN: Same objection.

19 A I don't know because I didn't went that far  
20 inside the Interstate.

21 Q But you do think you were in part of the  
22 Interstate?

23 A I thought I was because Roy screamed at me.  
24 That's why I got all scared and just slammed the brakes.  
25 Then that's why I saw that white car that was passing



1 through. That's when the accident happened because what  
2 happened is that that car, that white car was coming on  
3 the fast lane. I'm talking about the left-hand side, the  
4 fast lane.

5 And then what happened, that car just  
6 slowed down a little bit because they saw my headlights  
7 and my flashers. That's when the Toyota, I think he was,  
8 I don't know, I don't want to say anything but I think he  
9 was distracted that he just made that skip, like, he  
10 thought he was going to hit that white car, he skip it to  
11 the right-hand side, then tried to turn that truck back  
12 inside to the left-hand side, that's why he hit me on the  
13 headlights.

14 Q Okay. So at some point did you see headlights  
15 from the Toyota truck?

16 A What do you mean?

17 Q Did you ever see headlights coming from the  
18 Toyota truck?

19 A I saw them, yes, I do.

20 Q Do you know what lane he was in?

21 A What was that?

22 Q When you first saw him, the headlights from the  
23 Toyota truck, do you know what lane he was in?

24 A He was on the left-hand side on the fast lane.

25 Q What did you do when you saw those lights?

1 up and I thought -- that's what I thought that I was in  
2 the way, that's why the accident happened, but I wasn't.

3 Q Okay. And I just want to clarify that that's  
4 you on the audio.

5 A Yes, ma'am.

6 Q And I just want to clarify exactly what your  
7 statement was at the time. Whether you disagree with it  
8 now or not, that's not the point of the question.

9 Was your statement at the time "I know I  
10 got in the way"?

11 MR. HEARN: Let me just object. I'm going  
12 to object to that question to the extent you played an  
13 audio and video clip that's span a certain amount of time,  
14 that had multiple voices on it, some of which are not  
15 Mr. Martinez and some of which are. And in that segment  
16 that you played for him, Mr. Martinez made multiple  
17 statements.

18 So I object to the characterization and  
19 form of the question to the extent you're trying to take  
20 one piece of it and then characterize it as his statement.

21 So subject to that objection, you can  
22 answer her question.

23 Q (By Ms. White) So did you in fact state at the  
24 time, I know I got in the way?

25 A Yeah.

1 (Video playing.)

2 Q And did you state that you heard the truck press  
3 its brakes and then you attempted to reverse?

4 A Yes, ma'am.

5 Q Okay. After the impact with the bread truck,  
6 did you ever see any other vehicles drive south on  
7 Interstate 81?

8 A No, ma'am, I never saw them.

9 Q And when you were talking to the trooper, at  
10 some point did you hand him your logbook?

11 A Yes, ma'am, I did.

12 Q And was that a logbook that was kept with the  
13 SMC vehicle?

14 A That was Salinas logbook. That's one of the  
15 logbook we use for Salinas.

16 Q So that was a Salinas logbook?

17 A Yes, ma'am.

18 Q And do you know what happened to that logbook?

19 A No, ma'am.

20 Q Would you agree, as a professional truck driver,  
21 that the maneuver you were attempting was extremely  
22 dangerous?

23 MR. FRANKL: I'm going to object to the  
24 form of the question.

25 MR. HEARN: Object to form.

1 Q (By Ms. White) You can answer.

2 A I know it was dangerous, pero, like I had some  
3 help, that's why.

4 Q So as you're making the maneuver and your  
5 headlights are pointed across 81, where were you directing  
6 your attention?

7 A What do you mean?

8 Q Were you looking across 81 crosswise, were you  
9 looking to your left up the Interstate, were you looking  
10 backwards?

11 A I was checking to my left-hand side because of  
12 incoming cars. I was checking if I don't see no vehicles,  
13 I can be able to be playing with the truck so I can be  
14 able to back it up all the way to the back.

15 Q And you were in fact relying upon Roy and Art to  
16 make sure your backing up was safe?

17 MR. FRANKL: Object to form.

18 MR. HEARN: Objection.

19 A The interest?

20 Q What about -- what were you relying upon them to  
21 do?

22 A They were going to check just in case some  
23 vehicle was trying to get to where they were going to stop  
24 them. Try to avoid some accidents because I was in the  
25 way.

1 Virginia, are they connected in any way electrically?

2 A They were connect -- they were hook up but with  
3 chains and they had a wire with some -- some -- with  
4 some --lights in front.

5 MR. HEARN: Please continue asking your  
6 questions.

7 Q (By Ms. White) So they were connected with a  
8 wire?

9 A They had to put like some lights in front the  
10 Salinas trucks so we have some lights on the other end.

11 Q And were those -- how were those controlled?

12 A From the SMC truck on those, they had like a  
13 little, I don't know to be honest -- got a little plug  
14 they plug it in, and that was like a big old plate in  
15 front they hook up in front of the truck, so we have the  
16 stop and blinkers and everything on.

17 Q And do you know was that functioning at the time  
18 of the accident?

19 A Yes, ma'am, it was.

20 Q Did you guys test that out?

21 A Yes, ma'am, we did.

22 Q Whenever you did a job for Salinas Express, the  
23 logbook that you would keep would always go with the truck  
24 itself?

25 A Yeah, because we were assigned for that truck.

1 Q All right.

2 A We left everything, all papers and logs and  
3 everything because there were -- like later on that day  
4 they were going to pick them up, they would get the  
5 logbooks and the paperwork so they can be able to keep it,  
6 I think.

7 Q And did you ever keep any copy of any logbook?

8 A I never did.

9 Q Had you recorded any time in any logbook for the  
10 trip to Virginia when the accident happened?

11 A No, ma'am.

12 MR. DUNN: I'm sorry, what was the answer?

13 THE WITNESS: No.

14 MS. WHITE: Those are all the questions I  
15 have.

16 EXAMINATION

17 BY MR. DUNN:

18 Q Mr. Martinez, you never worked for SMC  
19 transport, correct?

20 A Correct.

21 Q On that date of October 25th, 20 --  
22 October 26th, 2015, you were helping out Roy Salinas,  
23 correct?

24 A Correct.

25 Q And helping out Salinas Express, correct?

1 A Yes, sir.

2 Q No one from SMC Transport went on the trip with  
3 you on that day?

4 A No, sir.

5 Q Correct?

6 A Correct.

7 Q No one from SMC Transport paid you for that  
8 particular trip, correct?

9 A Correct.

10 Q No one from SMC Transport was telling you what  
11 to do that day, correct?

12 A Correct.

13 Q In fact, the only connection you have with SMC  
14 Transport was that you happened to be in a vehicle that  
15 was owned by SMC Transport, correct?

16 A Correct.

17 Q SMC Transport didn't receive any benefit from  
18 the use of its vehicle, correct?

19 A Correct.

20 Q The Eddie gentleman that came along on the trip,  
21 he never worked for SMC Transport, did he?

22 A Correct. No, he didn't.

23 Q And you didn't -- you never overheard Sergio  
24 Cuellar discuss anything about the use of that SMC truck?

25 A Correct.

1 Q As far as you know, no one from SMC Transport  
2 made any phone calls to you guys when you were traveling  
3 from McAllen up into Virginia, correct?

4 A Yes, sir, correct.

5 MR. DUNN: Thank you very much.

6 EXAMINATION

7 BY MR. FRANKL:

8 Q Mr. Martinez, my name is Dan Frankl. I  
9 represent Salinas Express. In line with the questioning  
10 that Mr. Dunn just asked you, do you know if Sergio  
11 Cuellar is an owner of SMC?

12 A I think it is.

13 Q And he met you at a truck stop in McAllen,  
14 Texas?

15 A Correct.

16 MR. DUNN: I'm going to object to the form  
17 of the question.

18 Q (By Mr. Frankl) Didn't he meet you in a truck  
19 stop in McAllen, Texas before this accident?

20 MR. DUNN: I'm going to object to the form  
21 of the question. It was not to meet Israel Martinez.

22 Q Did he -- did Sergio Cuellar come to the truck  
23 stop in McAllen, Texas where you, Roy and Eddie were  
24 before this accident?

25 A Correct.